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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,250	11/17/2003	Brian J. Corell	200310748-1	4984

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EXAMINER

PANTOLIANO JR, RICHARD

ART UNIT	PAPER NUMBER
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2194

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/715,250	Applicant(s) CORELL ET AL.	
	Examiner Richard Pantoliano Jr	Art Unit 2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.


Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20031117</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the initial office action for Application# **10/715,250** filed on **17 November 2003**. **Claims 1-21** are currently pending and have been considered below.

Specification

2. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code on **page 5** of the specification. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Claim Objections

3. **Claim 1** is objected to because of the following informalities: line 1 of **Claim 1** should end with a colon. Appropriate correction is required.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
5. **Claims 7-12** rejected are under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
6. The current position of the Patent Office in regard to statutory inventions under 35 U.S.C. § 101 for method claims and claims that recite a judicial exception (software)

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is that the claimed invention recite a practical application. Practical application can be provided by a physical transformation or a useful, concrete and tangible result.

7. As per **Claim 7**, no physical transformation is recited and additionally, the final result of the claim is exchanging data, which is not a tangible result because there is no requisite hardware utilized in the method to render the result of that step tangible.

8. As per dependent **Claims 8-12**, these claims fail to correct the deficiencies of **Claim 7** and are, therefore, rejected for the same reasoning as applied to **Claim 7**.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. **Claim 1-8, 11-13, and 16-21** are rejected under 35 U.S.C. 102(b) as being anticipated by Jennings et al (US Pat: 6,717,593), hereafter Jennings.

11. As per **Claim 1**, Jennings discloses the invention substantially as claimed including a computer system comprising:

- a) a central processing unit (CPU) (202 and 214, Fig. 2);
- b) a memory unit coupled to the CPU (201 and 212, Fig. 2);
- c) an application stored in the memory unit and executable by the CPU (130 and 132, Fig. 2); and

d) a facade server stored in the memory unit and executable by the CPU, wherein the facade server hosts the application without utilizing network protocols (Col. 8, lines 27-65) (The “interactor” can download the necessary XML and JavaScript files from the server using inter-process communication instead of an HTTP connection when the server is co-located on the same computer with the interactor, thereby meeting this claim limitation).

12. As per **Claim 2**, Jennings further teaches a program stored in the memory unit and executable by the CPU, wherein the program creates an interface between the facade server and a web-browser for exchanging data associated with the application (130, Fig. 2 and Col. 8, lines 27-65).

13. As per **Claim 3**, Jennings further teaches wherein the program interacts with the facade server through a local protocol registered on the system (Col. 8, lines 27-65 and Col 9, lines 54-67) (Using an inter-process communication mechanism inherently requires that there be an established protocol between the two applications in order to allow for the proper communication of data).

14. As per **Claim 4**, Jennings further teaches wherein the application comprises one of a plurality of applications hosted by the facade server without utilizing network protocols (Col. 4, lines 21-34 and Col. 8, lines 27-65)

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15. As per **Claim 5**, Jennings wherein the application, the facade server, and the interface utilize a common address space (Col. 8, lines 27-65) (The co-location of the components meets this claim limitation).

16. As per **Claim 6**, Jennings further discloses a web-server, wherein the web-server handles connections to the application when operating in a network mode, and the facade server handles connections to the application when operating in a local-only mode (Col. 4, lines 35-52 and Col. 8, lines 27-65).

17. As per **Claim 7**, Jennings discloses the invention substantially as claimed including a method comprising:

a) generating application data from a web-based application (Col. 8, lines 27-65);
and

b) exchanging the application data with a user of the web-based application through a local protocol (Col. 8, lines 27-65) (The "interactor" can download the necessary XML and JavaScript files from the server using inter-process communication instead of an HTTP connection when the server is co-located on the same computer with the interactor, thereby meeting this claim limitation).

18. As per **Claim 8**, Jennings further teaches wherein the user interacts with the web-based application through a web-browser (Col. 4, lines 35-52 and Col. 8, lines 27-65).

19. As per **Claim 11**, Jennings further teaches hosting the web-based application with a facade server (210, Fig. 2 and Col. 4, lines 35-52 and Col. 8, lines 27-65) (The web server and the facade server are the same server, thereby meeting this claim limitation.

20. As per **Claims 12, 13, and 16**, being directed to computer readable media with executable instructions for performing the methods of **Claims 7, 8, and 11**, respectively, these claims are rejected for the same reasoning as provided for **Claims 7, 8, and 11**.

21. As per **Claim 17**, Jennings discloses the invention substantially as claimed including a computer system comprising:

- a) a means for executing programs (202 and 214, Fig. 2);
- b) a means for storing data coupled to the means for executing programs (201 and 212, Fig. 2);
- c) a means for generating application data from a web-based application, wherein the web-based application is stored in the means for storing data and executable by the means for executing programs (Col. 8, lines 27-65); and
- d) a means for hosting the web-based application, wherein the means for hosting the web-based application is stored in the means for storing data and executable by the means for executing programs (Fig. 2); and

e) wherein the means for hosting the web-based application does not utilize network protocols (Col. 8, lines 27-65) (The “interactor” can download the necessary XML and JavaScript files from the server using inter-process communication instead of an HTTP connection when the server is co-located on the same computer with the interactor, thereby meeting this claim limitation).

22. As per **Claim 18**, Jennings further teaches wherein a program executed by the means for executing programs interfaces the means for generating application data with a means for viewing the application data (132, Fig. 2 and Col. 4, lines 35-52 and Col. 8, lines 27-65).

23. As per **Claim 19**, Jennings further teaches wherein the means for hosting the web-based application is capable of mimicking a plurality of web-servers (120, Fig. 2; Col. 4, lines 35-52 and Col. 8, lines 27-65) (A web-server is merely an application, and 120, Fig. 2 shows that multiple applications can be run in the same physical server, thereby meeting this claim limitation).

24. As per **Claim 20**, Jennings further teaches wherein the web-based application comprises a plurality of web-based applications (120, Fig. 2 and Col. 4, lines 35-52 and Col. 8, lines 27-65).

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25. As per **Claim 21**, Jennings further teaches means for hosting data on a network, wherein the means for hosting data on a network is stored in the means for storing data and is executable by the means for executing programs; and wherein the means for hosting data on a network handles connections to the web-based application when the system is operating in a network mode, and the means for hosting the web-based application without utilizing network protocols handles connections to the web-based application when operating in a local-only mode (Col. 8, lines 27-65) (The “interactor” can download the necessary XML and JavaScript files from the server using inter-process communication when the server is co-located on the same computer with the interactor and using an HTTP connection when not co-located, thereby meeting this claim limitation).

Claim Rejections - 35 USC § 103

26. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

27. **Claims 9 and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Jennings in view of Lerner (US Pat: 6,192,395).

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28. As per **Claim 9**, Jennings further teaches wherein the local protocol uses a data transfer mechanism selected from the group consisting of software component models and data files.

29. Jennings does not explicitly teach wherein the group further consists of named data pipes and memory mapped I/O streams (Col. 8, lines 27-65).

30. Lerner teaches wherein the memory mapped I/O and named data pipes can be used (Col. 11, lines 23-67).

31. It would have been obvious to one of ordinary skill at the time invention to modify the method disclosed by Jennings with the teachings of Lerner. One would have been motivated by the fact that the disclosed limitations are common inter-process communication mechanisms that are essentially interchangeable (Jennings; Col. 8, lines 27-65).

32. As per **Claim 14**, being directed to computer readable media with executable instructions for performing the method of **Claims 9**, this claim is rejected for the same reasoning as provided for **Claim 9**.

33. **Claims 10 and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Jennings in view of Elkan (US PGPub: 2002/0055940).

34. As per **Claim 10**, Jennings further teaches wherein the web-based application generates the application by utilizing a web-based technology selected from the group consisting of JavaScript and hypertext markup language (HTML).

35. Jennings does not explicitly teach wherein the web-based technology is selected from the group consisting of Perl, Java, active server pages (ASP) or hypertext preprocessing (PHP).

36. Elkan teaches wherein the web-based technology is selected from the group consisting of Perl, Java, active server pages (ASP) or hypertext preprocessing (PHP) (para. [0030]).

37. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the method disclosed by Jennings with the teachings of Elkan. One would have been motivated by the fact that any scripting language or programming language can perform the tasks needed (Jennings; Col. 2, lines 12-53 and Elkan; para. [0030]).

38. As per **Claim 15**, being directed to computer readable media with executable instructions for performing the method of **Claims 10**, this claim is rejected for the same reasoning as provided for **Claim 10**.

Conclusion


39. The prior art made of record on the P.T.O. 892 that has not relied upon is considered pertinent to applicant's disclosure. Careful consideration of the cited art is required prior to responding to this Office Action, see 37 C.F.R. 1.111(c).

40. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Pantoliano Jr whose telephone number is (571) 270-1049. The examiner can normally be reached on Monday-Thursday, 8am - 4 pm EST.

41. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571)272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

42. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RP 3/31/07


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